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6 Attorneys for BAC Home Loans Servicing, L.P.
7 fka Countrywide Home Loans Servicing L.P.

8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In Re:

BK-S-09-17317 LBR

11 MARK STIEB, and CANDIE STIEB

Date: July 16, 2009

Time: 1:30 p.m.

12
13 Debtors.

Chapter 13

14
15 OPPOSITION TO MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY
16 RIGHTS OF COUNTRYWIDE HOME LOAN SERVICING, LP AND/OR ASSIGNS (ACCT
17 ENDING IN 1316) PURSUANT TO 11 U.S.C. SECTION 506(a) AND SECTION 1322

18 COMES NOW, BAC Home Loans Servicing, L.P. fka Countrywide Home Loans Servicing L.P.
(Hereinafter "Secured Creditor") and files this Opposition stating as follows:

19 There is no dispute that Secured Creditor holds the note, with the account number ending in 1316,
20 secured by a first deed of trust on the subject property. Furthermore, by the Debtors' own admission the
21 subject property is the Debtors' personal residence.

22 Debtors' interpretation of In re Zimmer, 313 F.3d 1220 (9th Cir. 2002) is correct in that "wholly
23 unsecured claims" can be stripped from real property. However, Debtors' contention that the loan
24 ending in 1316 is a "wholly unsecured loan" is improper and not correct.
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1 Attached as exhibit "A" is the Debtors' schedule "D" recognizing that this Secured Creditor holds
2 the "first" lien on the subject property, a large portion of which is secured even assuming Debtors'
3 valuation is correct.

4 Based on the foregoing, Debtors cannot strip or otherwise extinguish Secured Creditor's security
5 interest, or any portion thereof, in loan number ending in 1316. Such relief would violate the anti-
6 modification effect of 11 U.S.C. Sec. 1322(b)(2) for claims secured by a personal residence. See also,
7 Zimmer supra.

8 DATED this 14th day of July, 2009.

9
10 WILDE & ASSOCIATES

11 By _____

12 **GREGORY L. WILDE, ESQ.**

13 Attorneys for Secured Creditor

14 208 South Jones Boulevard
15 Las Vegas, Nevada 89107

16 Certificate of Facsimile

17 I certify that on July 14, 2009, I served a copy of the foregoing opposition on Debtors' counsel
18 by facsimile as follows:

19 Timothy F. Umbreit, Esq.
20 Fax no. (702) 267-8011

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EXHIBIT "A"

B6D (Official Form 6D) (12/07)

In re MARK STIEB & CANDIE STIEB

Debtor

Case No 09-17317-LBR3

(If known)

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim Without Deducting Value of Collateral" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion, if Any" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See Instructions Above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. 12053225333 America's Servicing Company PO Box 10388 Des Moines, IA 50306	C	Incurred: 3/11/06 Rental Property Mortgage VALUE \$ 149,000.00				297,548.93	148,548.93
ACCOUNT NO. 136981316 Countrywide Home Mortgage PO Box 6500700 Dallas, TX 75265-0070	J	Incurred: 5/3/2006 Lien: <u>First Mortgage</u> Primary Residence VALUE \$ 149,000.00				425,779.30	276,779.30
ACCOUNT NO. 0156298178 Toyota Motor Corporation P.O. Box 60114 City of Industry, CA 91716	C	 VALUE \$ 20,000.00				28,194.93	8,194.93
Subtotal > (Total of this page)						\$ 751,523.16	\$ 433,523.16
Total > (Use only on last page)						\$ 751,523.16	\$ 433,523.16

0 continuation sheets attached

(Report also on Summary of Schedules) (If applicable, report also on Statistical Summary of Certain Liabilities and Related Data)

EXHIBIT "A"